

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, STATE OF  
CALIFORNIA, COMMONWEALTH OF  
MASSACHUSETTS, STATE OF  
COLORADO, STATE OF CONNECTICUT,  
STATE OF DELAWARE, DISTRICT OF  
COLUMBIA, STATE OF HAWAII, STATE  
OF ILLINOIS, STATE OF MAINE, STATE  
OF MARYLAND, STATE OF MICHIGAN,  
STATE OF MINNESOTA, STATE OF  
NEVADA, STATE OF NEW JERSEY,  
STATE OF NEW MEXICO, STATE OF  
NORTH CAROLINA, STATE OF  
OREGON, COMMONWEALTH OF  
PENNSYLVANIA, STATE OF RHODE  
ISLAND, STATE OF VERMONT,  
COMMONWEALTH OF VIRGINIA, and  
STATE OF WISCONSIN,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,  
ALEX M. AZAR II, *in his official capacity as  
Secretary of Health and Human Services*, and  
ROGER SEVERINO, *in his official capacity  
as Director of the Office for Civil Rights at  
the United States Department of Health and  
Human Services*,

Defendants.

Civil Action No. 1:20-cv-5583-AKH

**PLAINTIFFS' NOTICE OF MOTION**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 56, Plaintiffs hereby move the Court for partial summary judgment with respect to Plaintiffs' claims for relief under the Administrative Procedure Act in Plaintiffs' complaint in this action. *See* Compl.

¶¶ 257-279, ECF No. 1.

Plaintiffs request that the Court declare that Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority, 85 Fed. Reg. 37,160 (June 19, 2020) (“2020 Rule”) is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law within the meaning of 5 U.S.C. § 706(2)(A); declare that the 2020 Rule is in excess of the U.S. Department of Health and Human Services’ statutory jurisdiction, authority, or limitations, or short of statutory right within the meaning of 5 U.S.C. § 706(2)(C); vacate and set aside the 2020 Rule; and enjoin Defendants and all their officers, employees, and agents, and anyone acting in concert with them, from implementing, applying, or taking any action whatsoever under the 2020 Rule.

In support of this motion, Plaintiffs rely on the accompanying Memorandum of Law; their Local Rule 56.1 Statement of Undisputed Material Facts; the Declaration of Joseph Wardenski dated September 10, 2020, and the exhibits attached thereto; the pleadings and papers on file in this action; and any argument and evidence that is presented on the hearing of this motion.

Dated: July 20, 2020

Respectfully submitted,

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